

The committee consisting of Mr. Kearney, Mr. Carrington, Mr. Bingham, Mr. Smith, and Mr. Dane, to whom was referred the report of the secretary at war, and sundry papers relative to Indian affairs in the Southern Department; and also a motion of the delegates from the state of Georgia, report ...

The Committee consisting of Mr. Kearney, Mr. Carrington, Mr. Bingham, Mr. Smith, and Mr. Dane, to whom was referred the Report of the Secretary at War, and sundry Papers relative to Indian Affairs in the Southern Department; and also a motion of the Delegates from the State of Georgia,

REPORT, THAT the said papers referred to them state, first, that certain encroachments are made on the lands of the Creek and Cherokee nations, by the people of Georgia and North-Carolina.

Secondly, That there is no regular trade between our citizens and the Indian nations in that department, by which those nations can obtain a certain supply of goods, arms, &c, that these nations wish to have connections with the United States only; that their necessities, however, are such, that if they cannot be regularly supplied by our traders, they must listen to the repeated invitations made them to turn their trade to, and to seek supplies from another quarter.

That the said motion, among other things, states, that there is reason to apprehend the Creek Indians are meditating a serious blow against the inhabitants of Georgia; and proposes, that it be recommended to that state to use every possible means to preserve peace between her citizens and those Indians; and that Congress resolve, they are bound

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to draw forth a sufficient number of the forces of the union to punish any nation or tribe of Indians that shall attempt to make war on either of the United States, by attacking or killing any of their citizens.

On these subjects the committee observe, that the encroachments complained of appear to demand the serious attention of Congress, as well because they may be unjustifiable, as on account of their tendency to produce all the evils of a general Indian war on the frontiers.

The committee are convinced that a strict enquiry into the causes and circumstances of the hostilities often committed in, and near the frontier settlements, ought to be made; that it is become necessary for government to be explicit, and decisive; and to see that impartial justice is done between the parties: that just and policy, as well as the true interests of our citizens, evince the propriety of promoting peace and a free trade between them and the Indians. Various circumstances shew that the the Indians, in general, within the United States, want only to enjoy their lands without interruption, and to have their necessities regularly supplied by our traders, and could these objects be affected, no other measures would, probably, be necessary for securing peace, and a profitable trade with those Indians.

The committee are not informed what measures have been adopted by the Superintendants to promote a regular trade between our people and the Indian nations, or for preventing intrusions upon the lands of the latter; several tribes complain that their land is taken from them, and that they suffer very much for want of such trade. As information relative to these subject, must, principally, come from the frontier settlers, the Indians, and traders residing among them; the committee are sensible that facts cannot always be well ascertained; but, in the present case, there is sufficient evidence to shew that those tribes do not complain altogether without cause. An avaricious disposition in some of our people to acquire large tracts of land, and often by unfair means, appears to be the principal source of difficulties with the Indians.

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There can be no doubt that settlements are made by our people on the lands secured to the Cherokees, by the late treaty between them and the United States; and also on lands near the Oconee claimed by the Creeks; various pretences seem to be set up by the white people for making those settlements, which the Indians, tenacious of their rights, appear to be determined to oppose. From these contrary claims, difficulties arise which are not easily removed. The respective titles cannot readily be investigated; but there is another circumstance far more embarrassing, and that is, the clause in the confederation relative to managing all affairs with the Indians, &c. is differently construed by Congress and the two states within whose limits the said tribes and disputed lands are. The construction contended by those states, if right, appears to the committee, to leave the federal powers, in this case, a mere nullity; and to make it totally uncertain on what principle Congress is to interfere between them and the said tribes: The states not only contend for this construction, but have actually pursued measures in conformity to it. North-Carolina has undertaken to assign land to the Cherokees, and Georgia has proceeded to treat with the Creeks concerning peace, lands, and the objects usually the principal ones in almost every treaty with the Indians. This construction appears to the committee not only to be productive of confusion, disputes, and embarrassments in managing affairs with the independent tribes within the limits of the states, but by no means the true one.

The clause referred to is,—“Congress shall have the sole and executive right and power of regulating the trade and managing all affairs with the Indians, not members of any of the states; provided that the legislative right of any state within its own limits be not infringed or violated.” In forming this clause, the parties to the federal compact, must have had some definite objects in view; the objects that come into view, principally, in forming treaties or managing affairs with the Indians, has been long understood, and pretty well ascertained in this country. The committee conceive that it has been long the opinion of the country, supported by justice and humanity, that the Indians have just claims to all lands occupied by, and not fairly purchased from them; and that in managing affairs with them, the principal objects have been those of making war and peace, purchasing certain

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tracts of their lands, fixing the boundaries between them and our people, and preventing the latter settling on lands left in possession of the former. The powers necessary to these objects appear to the committee to be indivisible, and that the parties to the confederation must have intended to give them entire to the union, or to have given them entire to the state;—these powers before the revolution were possessed by the king, and exercised by him, nor did they interfere with the legislative right of the colony within its limits; this distinction which was then, and may be now taken, may perhaps serve to explain the proviso, part of the recited clause. The laws of the state can have no effect upon a tribe of Indians or their lands within the limits of the state, so long as that tribe is independent, and not a member of the state, yet the laws of the state may be executed upon debtors, criminals, and other proper objects of those laws in all parts of it, and therefore the union may make stipulations with any such tribe, secure it in the enjoyment of all or part of its land, without infringing upon the legislative right in question. It cannot be supposed the state has the power mentioned without making the recited clause useless, and without absurdity in theory as well as in practice; for the Indian tribes are justly considered the common friends or enemies of the United States, and no particular state can have an exclusive interest in the managements of affairs with any of the tribes, except in some uncommon cases.

The committee find it difficult to reconcile the said construction of the recited clause made by the two states, and their proceedings before mentioned, especially those of Georgia, with what they conceive to be the intentions of those who made the said motion—for the committee presume that the delegates of Georgia do not mean that Congress is bound to send their forces to punish such nations as the state shall name, to act in aid of the state authority; to send her forces and recal them as she shall see fit, to make war or peace; such an idea cannot be consistent with the dignity of the union, and the principles of the federal compact. But the committee conceive that it is the opinion of the honorable movers, and also the general opinion, that all wars are hostile measures against the Creek, or any other independent tribes of Indians, ought to be conducted under

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the authority of the union, at least where the forces of the union are employed, that the power to conduct a war clearly implies the power to examine into the justice of the war, to make peace, and adjust the terms of it; and that, therefore, the terms or words of the said motion, if it be adopted by Congress at all, must be varied accordingly.

But whatever may be the true construction of the recited clause, the committee are persuaded that it must be impracticable to manage affairs with the Indians within the limits of the two states, so long as they adhere to the opinions and measures they seem to have adopted. The difficulties, in fact, exist; the states think it is their duty to counteract the powers of Congress, when carried, in conducting affairs with those Indians, beyond those narrow limits which the said states prescribe—the question, therefore is, how shall these difficulties be avoided in a manner most agreeable to both Congress and the states —The committee discern but two ways practicable; the one is for the two states to make liberal cessions of territory to the United States—the other is, for those states to accede to Congress's managing, exclusively, all affairs with the Cherokees, Creeks, and other independent tribes within the limits of the said states, so that Congress, in either case, may have the acknowledged power of regulating trade, and making treaties with those tribes, and of preventing on their lands, the intrusions of the white people. That of making liberal cessions of territory, all things considered, appears to be the most eligible and likely to meet the approbation of the two states—several circumstances induce the committee to think this the best mode; they presume the two states will act on liberal principles, and adopt measures founded in sound policy, and calculated to promote the national interest, they will consider that the lands proposed to be ceded were arrested from Great-Britain by the common exertions of the confederacy, and that other states have ceded lands to the union in a similar situation, which are now selling for the common benefit of all the states. The committee conceive that several other considerations cannot escape the observation of the two states, which may be urged in favor of the cessions; among other things of importance to those states, as well as to the union, must be the advantages arising from putting the management of Indian affairs into the hands of Congress alone, and preventing

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irregular and dispersed settlements on the lands proposed to be ceded.—The committee believe that the two states, upon reconsidering the subject, will be disposed to follow the liberal examples of the other states in a similar situation, and especially, as it will probably appear to the two states, that by making the proposed cessions, those difficulties they now experience will be removed, that is, the controversies respecting Indian affairs, and those dispersed settlements which tend to render the governments weak and feeble, and to produce expensive and calamitous wars with the Indians.

The committee further observe on the subjects referred to them, that it is probable the Indians in the southern department will turn their trade to Florida, unless regularly supplied by our citizens and traders; and that the attention of the superintendant in that department ought to be seasonably directed to the encouragement and promotion of a regular trade between our citizens and those Indians.

That the dispute between Georgia and the Creeks is become so serious, that it is probable a war will ensue, and the interference of the union become necessary, unless early measures be adopted for settling the controversy respecting the said Oconee lands; the committee think, therefore, that it should be recommended to that state to use all possible means for preserving peace with the Creeks, and that they and the Cherokees be informed that Congress are pursuing measures for adjusting all disputes about their lands.—That Georgia be informed that Congress consider the union bound by the federal compact to protect every part of the nation, as well against the unjust and unprovoked attacks of the independent tribes of Indians within the United States, as against foreign powers—that Congress, however, can never employ the forces of the union in any cause, the justice of which they are not fully informed and convinced, or constitutionally interfere in behalf of the state against any such independent tribe, but on the principle that Congress shall have the sole direction of the war, and of settling all the terms of peace with such Indian tribe.——Whereupon the committee suggest the following resolutions:

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RESOLVED, That it be, and it hereby is earnestly recommended to the states of North-Carolina and Georgia, respectively, to make liberal cessions of territory to the United States, for their common benefit, to be governed and disposed in the same manner as the territory of the United States, north west of the river Ohio is, and shall be governed and disposed of

Resolved, That it be recommended to the state of Georgia to use all possible means to preserve peace and friendship between the citizens of that state and the Upper and Lower Creek Indians, consistent with the principles of the confederation.

Resolved, That Congress esteem it their duty to consider the causes and circumstances of any dispute or hostile proceedings between any state, or the citizens thereof, and any Indian tribe or tribes of Indians within the limits of the United States, not members of any of the states, and that Congress is bound to employ the forces of the union to punish any such tribe or tribes which shall make unjust and unprovoked attacks upon any part of the United States.

Resolved, That the superintendant of Indian affairs in the southern department be directed, without delay, to inform the Creeks and Cherokees, that Congress are pursuing measures for settling all disputes about the lands claimed by them and the white people—that he be directed to inform the Indians in his department, that Congress is always disposed to hear their complaints, which must be made through the superintendant, to redress their grievances, and to preserve peace and lasting friendship with them; and that he be directed to report the measures that have been adopted for supplying those Indians with merchandize.